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## **CHAPTER 5 - EXTENSION OF SYSTEMS AND CREATION OF CERTAIN SPECIAL DISTRICTS**

### **ARTICLE I. - EXTENSION OF SYSTEMS**

#### **DIVISION 1. - GENERALLY**

**Secs. 5-1—5-200. - Reserved.**

#### **DIVISION 2. - SPECIAL DISTRICTS**

**Sec. 5-201. - Establishment of special district; generally.**

Upon application by the proponents of any political subdivision (district) to the city council for the creation or expansion of such a district within the corporate limits of the city, or all or any part of the city's extraterritorial jurisdiction, the proponents of such political subdivision shall adhere to and comply with the rules, regulations, and standards set forth in this chapter and with the provisions of such written consent, whether expressed by ordinance, resolution, or otherwise, and shall be a prerequisite to the granting of such written consent. In the event of the creation of such a district, within thirty (30) days after such creation and the appointment or election of the district's board of directors and officers, the board shall authorize and its officers shall execute and deliver a written document to the city adopting, approving, and agreeing to comply with and abide by all of the rules, regulations, standards, conditions, and covenants set forth in this division and in the city's written consent to the creation of such district.

**Sec. 5-202. - Deposit against expenditures.**

- A. Upon application for consent to the creation of such a district, the owner or the developer of the land within such proposed district shall deposit with the city the sum of twenty thousand dollars (\$20,000.00) to reimburse the city for all fiscal, legal, and engineering fees and expenses incurred by it relating to:
1. All related professional fees, including but not limited to legal, engineering, and consultants services (professional fees) to determine the necessity and feasibility of the creation of the district;
  2. The financial advisory services to the city described herein;
  3. All professional fees regarding the application for consent to create and the creation of such district;
  4. All professional fees pertaining to the review and submittal for approval of any agreements associated with the creation of the district e.g. utility agreement, development agreement, related agreements, and ordinance preparation etc.;

5. Any other professional fees incurred by the city in relation to district creation and continuation thereafter, such as bond sales and approval, annexations related to district, ordinances, fire service agreement, etc.
- B. The owner or the developer of the land within such proposed district shall also be obligated to pay additional expenses incurred by the city for services of the nature heretofore described in an amount not to exceed an additional ten thousand dollars (\$10,000.00) (additional deposit) as determined by the city manager. Such sums shall be used by the city for the purpose of paying the costs incurred for such purposes. No interest will be allowed on any deposit provided for herein.
- C. If any portion of the additional deposit is not needed for the purpose of paying such fees and expenses, such unused portion shall be returned forthwith to the owner, developer or district. It is understood and agreed that the fees and expenses paid in relation to the additional deposit will be those actually incurred for such purposes by the city and that the city will make an accounting of such expenditures to the owner, developer or district. Those persons requesting the city's consent to the creation of the district shall be obligated to guarantee payment to the city of the sums set forth herein.

**Sec. 5-203. - Council to approve member on board of directors of district.**

At least one (1) member of the initial board of directors of the district shall be a person approved by the city council.

**Secs. 5-204—5-229. - Reserved.**

**ARTICLE II. - CREATION OF CERTAIN SPECIAL DISTRICTS**

**DIVISION 1. - IN-CITY MUNICIPAL UTILITY DISTRICTS**

**Sec. 5-230. - Policy.**

- A. There is hereby adopted a policy and plan establishing the conditions under which a municipal utility district may be formed within the corporate limits of the city, which shall read as follows:
- B. The following terms, conditions and standards establish the basis under which the City Council of the City of Rosenberg may consent to the formation of a municipal utility district within the corporate limits of the City of Rosenberg.

**Sec. 5-231. - Ordinance to create MUD.**

- A. The city's consent to the creation of a municipal utility district (MUD) proposed to be formed within the corporate limits of the city under the Texas Water Code and the Texas Constitution Section 59, Article XVI, shall be evidenced by the adoption of an ordinance.

- B. No ordinance shall be adopted consenting to the creation of a MUD until the city council finds that the proposed MUD (1) will be an economically feasible and sound development benefiting the city, (2) will not adversely affect the existing city water, sewer and storm facilities or other city utilities or city functions, and (3) will not increase the city's taxes or utility rates or adversely impact the city's financing or bond rating, and that (4) all of the conditions imposed by this article have been agreed to by the majority in value of landowners within the proposed MUD.

**Sec. 5-232. - Conditions to creation.**

The following conditions shall apply to every MUD within the city:

- A. The MUD may acquire property outside its boundaries with consent of the city only for purposes of providing stormwater drainage and detention, potable water distribution, wastewater collection, and for all other purposes permitted by law.
- B. The MUD shall not provide services for, or acquire property to provide services for, any property outside its boundaries without the consent of the city.
- C. The MUD shall not allow use of easements or stormwater drainage facilities owned or controlled by the MUD for any property or development outside its boundaries without the consent of the city.
- D. The petitioner shall pay all costs as provided for in 5-202.
- E. The facilities to be constructed by the MUD shall be designed and constructed in compliance with all applicable requirements and criteria of the applicable regulatory agencies and subject to the applicable provisions of the city's ordinance granting a petition for inclusion of certain territory in the MUD (the "consent ordinance").
- F. The city shall not allow any connection to be made to the MUD's wastewater system until, with respect to such connection:
  - 1. The MUD has issued an assignment of capacity specifying the number of gallons per day of water supply and wastewater treatment allocated for such connection, and has provided a copy thereof to the city manager;
  - 2. The city has inspected the connection and premises and has issued a building permit for that connection; and
  - 3. All buildings or structures served by connections shall be located entirely within the boundaries of a lot or parcel shown in a plan, plat or replat filed with and finally approved by the city and city council and duly recorded in the official records of the county where the property is located (provided this limitation shall not apply if no plan, plat or replat is required by applicable state statutes or city ordinances).

- G. Unless and until the city shall dissolve the MUD and assume the properties, assets, obligations and liabilities of the MUD, the bonds of the MUD, as to both principal and interest, shall be and remain obligations solely of the MUD and shall never be deemed or construed to be obligations or indebtedness of the city.
- H. All contracts with third parties for construction of water, wastewater and stormwater facilities to serve the proposed MUD will contain the following provisions:
1. A requirement that all plans and specifications for construction of improvements or modification of improvements which are to be built to serve the MUD and/or require approval of the Texas Commission on Environmental Quality be prepared in accordance with the then adopted city specifications and requirements for such facilities and delivered to the city engineer for approval prior to submission to the Texas Commission on Environmental Quality. All plans and specifications presented to the bidders shall be approved by the city prior to advertising for bids;
  2. An agreement that all construction or modification of improvements to serve the MUD will be inspected by the city and that no underground improvements will be backfilled prior to inspection and approval by the city; and
  3. All contracts for construction of improvements will be awarded in compliance with the terms contained within public bidding statutes in Chapter 49 of the Texas Water Code.
- I. As the MUD's facilities are acquired and constructed, the MUD shall convey the same to the city, including all warranties relating to the facilities; provided, however, that the MUD shall not convey, and the city shall not accept, stormwater detention systems (stormwater detention systems shall be owned and operated by the homeowners association or other entity acceptable to the city as provided in the utility contract and the MUD shall be granted a drainage easement on the stormwater detention systems in a form acceptable to the city).
- J. As acquisition and/or construction of each phase of the facilities is completed, representatives of the city shall inspect the same and, if the city finds that the same has been completed in accordance with the final plans and specifications, the city will accept the same, whereupon such portion of the facilities shall be operated and maintained by the city at its sole expense; provided, however, that the city shall not accept, or operate and maintain, stormwater detention systems; (stormwater detention systems shall be owned and operated by the homeowners association or other entity acceptable to the city as provided in the consent agreement); and further provided, however, that in the event that the facilities have not been completed in accordance with the final plans and specifications, the city will immediately advise the MUD in what manner said facilities do not comply, and the MUD shall immediately correct the same, whereupon the city shall again inspect the facilities and accept the same if the defects have been corrected.

- K. The city shall bill and collect from customers of the facilities and shall from time to time fix such rates and charges for such customers of the facilities as the city, in its sole discretion, determines are necessary; provided that the rates and charges for services afforded by the facilities will be equal and uniform to those charged other similar classifications of users in non-MUD areas of the city; and all revenues from the facilities shall belong exclusively to the city without rebate of such revenues to the MUD.
- L. The city may impose a charge for connection to the facilities at a rate to be determined from time to time by the city, provided the charge is equal to the sums charged other city users for comparable connections; and the connection charge shall belong exclusively to the city.
- M. The MUD is authorized to assess, levy and collect ad valorem taxes upon all taxable properties within the MUD to provide for: (a) the payment in full of the MUD's obligations, including principal, redemption premium, if any, and interest on the bonds to be issued by the MUD and to establish and maintain any interest and sinking fund, debt service fund or reserve fund, (b) the administration, operation and maintenance purposes, all in accordance with applicable law, and (c) to pay expenses of assessing and collecting the taxes. The city will levy and collect ad valorem taxes upon all taxable properties in the city, including the MUD. The city will agree in the utility agreement to rebate to the MUD on an annual basis city ad valorem taxes attributable to the city's debt service payments for drainage only to the extent required by applicable law.
- N. Unless the MUD is in default under the terms of its utility agreement after reasonable opportunity to cure, the city shall not dissolve the MUD until the water, wastewater and drainage utilities required to serve the MUD have been completed and bonds issued by the MUD to finance same; and the city shall afford the MUD the opportunity to discharge any obligations of the MUD pursuant to any existing agreements of the MUD with third parties for construction of facilities, by either: (a) authorizing the MUD to sell its bonds before or during a transition period prior to the effective date of dissolution, as established by the city, (b) issuing bonds and selling bonds of the city pursuant to Vernon's Texas Codes Annotated, Local Government Code Section 43.080, as amended, in at least the amount necessary to discharge the MUD's obligations, including those under any such agreements, or (c) providing written notice to the MUD that the city has sufficient funds available from other sources to discharge the MUD's obligations, including those under any such existing agreements with third parties. The city shall have the right to dissolve the MUD if construction of water, wastewater or drainage utilities required to serve the MUD does not begin within thirty-six (36) months of execution of the consent agreement.
- O. All city ordinances and codes, including applicable permits, fees and inspections, shall be of full force and effect within the boundaries of the MUD in the same manner as with respect to other areas within the city's corporate limits, except as specifically herein provided otherwise.

P. No bonds, other than refunding bonds, or notes of the MUD shall be issued or sold unless not less than twenty (20) days following the filing of an application with the Texas Commission on Environmental Quality for the approval of projects and bonds, the MUD provides the city with a copy of such application and not less than twenty (20) days prior to publication of notice of sale, the MUD provides the city with a copy of the staff memorandum of Texas Commission on Environmental Quality approving the projects and bonds, a copy of its proposed bond order, preliminary official statement, bid form and notice of sale and the following criteria are met. The MUD shall not issue bonds unless the following conditions have been satisfied:

1. The MUD shall not issue any bonds, other than refunding bonds, unless the purpose for which the proceeds of such bonds may be used is limited to one (1) or more of the following and no others:

i. Designing, purchasing and/or constructing or otherwise acquiring:

(a) waterworks facilities,

(b) wastewater facilities, or

(c) stormwater drainage and detention facilities,

ii. Purchasing, constructing, owning, operating, repairing, improving, extending or otherwise acquiring interests in real property, improvements, facilities, appliances, equipment, buildings, plants or structures necessary or incidental to the operation of waterworks facilities, wastewater facilities, or stormwater drainage facilities. Proceeds of the bonds for costs of operations of the MUD shall not exceed ten (10) percent of the issuance amount.

iii. All costs of issuance of the bonds (including but not limited to legal fees, financial advisory fees, administrative and organizational fees and expenses and costs of operations during construction, bond discount, capitalized interest, developer interest, creation costs, printing expenses, publication expenses and contingencies relative to facilities not yet under contract). Proceeds of the bonds for costs of operations of the MUD shall not exceed ten (10) percent of the issuance amount.

iv. All other purposes authorized by law.

2. The MUD shall not sell or issue any bonds unless:

i. The terms of such bonds expressly provide that the MUD reserves and shall have the right to redeem the bonds not later than the 15th anniversary of the date of issuance, without premium.

- ii. The bonds, except refunding bonds, are sold after the taking of public bids therefor.
  - iii. None of such bonds, other than refunding bonds, are sold for less than ninety-five (95) percent of par.
  - iv. The net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, does not exceed two (2) percent above the highest average interest rate reported by the daily bond buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given and bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given.
  - v. The maximum term of any debt issuance shall be no greater than twenty-five (25) years.
  - vi. The minimum par amount of any bonds issued, except a final issue, shall be one million dollars (\$1,000,000.00).
  - vii. Each issue of bonds shall be structured to achieve either level principal payments or level debt service payments, excluding the first two (2) years of debt service.
  - viii. The MUD shall submit to the city pro forma cash flows evidencing a MUD tax rate (both maintenance and operations rate and interest and sinking rate combined) not to exceed one dollar and fifty cents (\$1.50) per one hundred dollars (\$100.00) assessed valuation.
  - ix. Each bond issue shall not include more than two (2) years of capitalized interest. The city shall review the documents required to be provided hereunder and the evidence of compliance with the foregoing criteria within fifteen (15) days following receipt of same. The issuance of bonds by the MUD must be approved by the city council of the city, or its designee. Any costs incurred by the city in connection with review of the issuance of bonds shall be paid by the MUD, in an amount not to exceed two thousand five hundred dollars (\$2,500.00).
- Q. The city acknowledges that a MUD has authority to assess an unlimited tax for payment of debt service. However, prior to implementation of any increase in tax rate above its initial rate, the MUD shall make a formal presentation to city council explaining the need for the increase, at which time residents of the MUD shall be given an opportunity to be heard. Notice of such presentation shall be sent to each owner of taxable property within the MUD as reflected on its most recent certified tax roll. This provision shall be in addition to any requirements of notice and hearing which may be contained in the Texas Water Code and in the Texas Tax Code which apply to the MUD.

- R. In addition to the information the MUD is required to file of record as required by the Texas Water Code, the MUD shall annually deliver to each property owner within the MUD, as reflected on its most recent certified tax roll, written notice of the existence of the MUD and its right to assess taxes in addition to those assessed by the city. Such notice shall also contain a reference to the consent agreement, the consent ordinance and this paragraph. Such notice shall advise the property owner that such documents are available for inspection during regular business hours in the MUD's office.
- S. The majority in value of landowners within the proposed MUD shall enter into a water supply and wastewater services contract ("utility contract") with the city, which shall contain the terms and conditions set forth in this Section 5-232, as well as other terms and conditions which may be agreed to by the city or imposed herein. The utility contract shall be assigned by the proponent to the MUD upon its creation;
- T. The utility agreement shall be entered into simultaneously with the adoption of the consent ordinance.
- U. The MUD shall establish an official meeting location within the corporate limits of the city and at all times after the MUD has one hundred (100) residential connections, it is to hold the meetings of its board of directors at such location.
- V. In addition to any other notice requirements applicable to the MUD, the MUD must post an agenda of the meetings of its board of directors at all primary entrances to the MUD and at the location designated for notices at city hall not less than seventy-two (72) hours prior to any meeting. An agenda shall also be provided to the city manager of the city prior to any meeting of the board of directors.
- W. The official office for recordkeeping of the MUD must be accessible to the district residents and shall not require a long distance phone call for a district resident to contact the official office for recordkeeping.
- X. The MUD shall comply with all applicable requirements of the Texas Commission on Environmental Quality regarding the display of signage at entrances into the MUD.

**Sec. 5-233. - Petition for creation of MUD.**

Upon the presentation of a petition for consent for the creation of a MUD within the corporate limits of the city, the majority in value of landowners within the proposed MUD shall:

- A. Present evidence that the proposed MUD contains one hundred (100) or more acres; present evidence that the petition is filed on behalf of the majority in value of landowners within the proposed MUD; and show that the proposed MUD is wholly within the corporate limits of the city;

- B. Present a preliminary report describing the MUD and proposed use of the land within the MUD showing that the proposed MUD and land use are feasible;
- C. Present an estimate of assessed valuation of the MUD showing the value of property as it exists on date of the petition; a build-out schedule showing the projected value of the property when fifty (50) percent of the projected vertical improvements for the MUD, exclusive of wastewater, water, sewer and drainage improvements, have been completed; and showing the projected value of the improvements upon completion of the development within the MUD; and
- D. Agree that the majority in value of landowners within the proposed MUD shall develop the property for the purposes substantially as described in the preliminary report, except as may otherwise be agreed by the proponent and the city, and that prior to commencement of any improvements, will comply with all provisions of the subdivision ordinances and zoning ordinances of the city.

**Sec. 5-234. - Other requirements.**

The city reserves the right to impose other specific requirements relative to a given MUD, including, but not limited to park requirements, construction material or houses and other buildings, amenities, and minimum lot sizes, which shall be agreed to and set forth in the consent agreement.

**Sec. 5-235. - Abolition.**

It is the policy of the city that a MUD created within the city should not be abolished until such time as it has retired all of its outstanding bonded indebtedness, so that the city taxpayers outside the MUD shall not have to pay off all or any part of the bonded indebtedness incurred by the MUD. The city does reserve the right to abolish any MUD, regardless of whether it has any outstanding debt, if it is deemed to be in the best interest of the city.

**Sec. 5-236. - City services.**

The city shall provide fire, police and other general city services to the areas within the MUD equal to those provided in non-MUD areas of the city.

**Secs. 5-237—5-239. - Reserved.**

**DIVISION 2. - STANDARD CONDITIONS TO THE CITY'S CONSENT TO THE CREATION OF POLITICAL SUBDIVISIONS WITHIN THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY**

**Sec. 5-240. - Policy**

The city council hereby finds, determines, and declares that it is to the best interests of the City of Rosenberg and of the territory within its extraterritorial jurisdiction, that the proponents of any municipal utility district or any other political subdivision having

as one (1) of its purposes the supplying of fresh water for domestic or commercial uses, the furnishing of sanitary sewer service, or the furnishing of drainage and/or flood control services when such district is sought to be created within the area of the extraterritorial jurisdiction of the City of Rosenberg, shall as a prerequisite to the written consent of the City of Rosenberg, agree and covenant in writing, to adhere to the following rules, regulations and standards:

- A. Bonds may be issued by the district only for the purpose of purchasing and constructing, or purchasing or constructing, or under contract with the city, or otherwise acquiring waterworks systems, sanitary sewer systems, sewage treatment facilities, storm sewer systems and drainage facilities, levee facilities, fire protection facilities or parts of such systems or facilities, and to make any and all necessary purchases, construction, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary lands, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefore, and maintain same and to sell water, sanitary sewer and other services within or without the boundaries of the district. Such bonds and all refunding bonds of the district shall only be sold after taking public bids therefore. All district bonds shall expressly provide that the district shall reserve the right to redeem said bonds on any interest payment date subsequent to the fifteenth anniversary of the date of issuance without premium. No bonds, other than refunding bonds, shall be sold at less than ninety-five (95) percent of par, provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bond, will not exceed two (2) percent above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than forty-five (45) days after the notice of sale of the bonds is given.

The maximum term of any debt issuance shall be no greater than twenty-five (25) years. The minimum par amount of any bonds issued, except a final issue, shall be one million dollars (\$1,000,000.00). Each issue of bonds shall be structured to achieve either level principal payments or level debt service payments, excluding the first two (2) years of debt service. The district shall submit to the city pro forma cash flows evidencing a district tax rate (both maintenance and operations rate and interest and sinking rate combined) not to exceed one dollar and fifty cents (\$1.50) per one hundred dollars (\$100.00) assessed valuation. Each bond issue shall not include more than two (2) years of capitalized interest. The resolution authorizing the issuance of the district's bonds will contain a provision that any pledge of the revenues from the operation of the district's water and sewer and/or drainage system to the payment of the district's bonds will terminate when and if the City of Rosenberg annexes the district, takes over the assets of the district and assumes all of the obligations of the district. No land will be added or annexed to the district until the City of Rosenberg has given its written consent by resolution or ordinance of the city council to such addition or annexation.

- B. Before the commencement of any construction within the district, the district, its

directors, officers, or developers and landowners will submit to the city or its designated representative all plans and specifications for the construction of water, sanitary sewer, and drainage facilities to serve such district and obtain the approval of such plans and specifications from the city. All water wells, water meters, flush valves, valves, pipes, drainage pipes, drainage ditches, drainage basins, all water service lines and sewer service lines, lift stations, sewage treatment facilities and appurtenances thereto, installed or used within the district shall comply with the city's standard plans and specifications. Prior to the construction of such facilities within the district, the district, or its engineer shall give written notice to the city stating the date that such construction will be commenced. The construction of the district's water, sanitary sewer and drainage facilities shall be in accordance with the approved plans and specifications of the city, and during the progress of the construction and installation of such facilities, the city or a designated representative of the city may make periodic on-the-ground inspections to determine that the construction and installation complies with the approved plans and specifications.

- C. No such construction of water, sanitary sewer, and drainage facilities shall be started or undertaken by the district unless it has in its possession a certificate of the district's engineer, who shall be a registered professional engineer under the laws of the State of Texas, that in his opinion, such construction conforms to the city's established standards and specifications; and a letter or certificate from the engineer of the City of Rosenberg that, in his opinion, such construction conforms to the city's established standards and specifications.
- D. The owner and developer of the land within the district shall covenant and agree that he or they will, prior to the sale of any lot or parcel of land, obtain the approval of the planning and zoning commission and city council and all other applicable authorities of the City of Rosenberg of a plat thereof and properly record it in the deed records.
- E. The district will not provide water or sewer service to a residential lot unless the plat covering such a lot has been approved by the planning and zoning commission and city council and all other applicable authorities of the City of Rosenberg.
- F. Full-time resident inspection shall be provided during the construction period by the district inspectors approved by the engineer of the city, which inspectors shall be removed upon the request of said city engineer if the inspectors are found not to be competent. In addition, an additional inspector or inspectors shall be furnished, if deemed necessary by the city engineer. Daily inspection reports shall be furnished, with a copy to the City of Rosenberg. All construction contracts shall be let on a competitive bidding basis with the contract to be awarded on the basis of the lowest and best bid by a responsible, competent contractor, which bid shall include evidence of the financial condition of the bidders. Bid bonds, payment bonds, performance bonds and affidavits of payment shall be in all cases required. Upon completion of construction, submission of a complete set of "as built" plans to the city by the district engineer shall be required.

- G. Any district providing sewage treatment services agrees to employ a sewage treatment plant operator holding a valid certificate of competency issued by the Texas Commission on Environmental Quality ("TCEQ"). The district agrees to send copies to the city of all reports, data and filings required to be made to TCEQ or any other regulatory authority having jurisdiction over the district's facilities or operations.
- H. The district, its board of directors, officers, developers, and/or landowners will not permit the construction, or commit to any development, within the district that will result in wastewater flow to the serving treatment facility which exceeds that facility's legally permitted average daily flow limitations or the district's allocated capacity therein.
- I. The district shall not be permitted to escrow any funds in excess of two (2) years interest on the bonds which the district issues and shall levy a tax simultaneously with the first installment of such bonds and continue a tax levy until such bonds are paid in full, unless revenues of the system are adequate to discharge such bonds.
- J. No bonds or notes of the district shall be issued or sold unless the district is in compliance with paragraph (1) above and not less than twenty (20) days following the filing of an application with the TCEQ for the approval of projects and bonds, the district provides the city with a copy of such application and not less than twenty (20) days prior to the publication of notice of sales, the district provides the city with a copy of the staff memorandum of the TCEQ approving the projects and bonds and a copy of its proposed bond order, preliminary official statement, bid form and notice of sale and the criteria set forth in subsection (A) above are met. The city shall review the documents submitted and the evidence of compliance with the criteria within fifteen (15) days following receipt of same. The issuance of bonds by the district must be approved by the city council of the city or its designee.
- K. Prior to the sale of any series of district bonds, the district shall secure a letter to the Attorney General of Texas from the City of Rosenberg to the effect that the district is in compliance with the terms and conditions of this division.
- L. The district will use its best efforts to structure its rates for water and sewer service in the same manner as the City of Rosenberg even though levels of rates may vary.
- M. The petitioner shall pay all costs as provided for in Section 5-202.
- N. In addition to any other notice requirements applicable to the district, the district must post notice of the meetings of its board of directors at all primary entrances into the district, and at the location designated for notices at city hall, not less than seventy-two (72) hours prior to any meeting. Notices shall also be provided to the city manager of the city prior to any meetings of the board of directors. The board of directors shall hold its meetings at a location accessible to its residents. At all

times after the district has one hundred (100) residential connections, it shall hold the meetings of its board of directors at a location within the corporate limits of the city or within the boundaries of the district.

- O. The official office for recordkeeping of the district must be accessible to the district residents and shall not require a long distance phone call for a district resident to contact the official office for recordkeeping.
- P. The district shall comply with all applicable requirements of the TCEQ regarding the display of signage at entrances into the district.
- Q. Within six (6) months of the creation of the district, the district shall enter into an agreement for fire protection services with the city.
- R. The petitioner shall be required to comply with the terms of the city's park dedication ordinance.

**Secs. 5-241—5-246. - Reserved.**

**DIVISION 3. – REFUNDING OF EXISTING AND FUTURE INDEBTEDNESS OF SPECIAL UTILITY DISTRICTS**

**Sec. 5-247. - Policy.**

This Ordinance establishes the policy of the City with regard to refunding the existing and future Indebtedness of a District.

**Sec. 5-248. - Refunding Bonds.**

A District may issue Refunding Bonds to refund Indebtedness of the District in compliance with the standards and conditions of this Ordinance. The City Manager shall have the authority to approve the issuance of Refunding Bonds that comply with this Ordinance. A District may issue Refunding Bonds that do not meet the requirements of this Ordinance only after obtaining approval of the City Council to do so.

**Sec. 5-249. - Bond Ratings and Insurance.**

The City encourages the District to obtain a municipal bond rating and/or municipal bond insurance when such rating and/or insurance is available and results in greater Net Present Value Savings than the cost of such rating and/or insurance.

**Sec. 5-250. - Transfer of Funds.**

To the extent a District is authorized by applicable law, a District may transfer any cash or securities to the escrow fund or redemption fund for the payment of the Refunded Bonds. Any surplus debt service funds allocable to the Refunded Bonds which would no longer be dedicated to the payment of the District's remaining Indebtedness shall be

placed in the escrow fund or redemption fund for the Refunded Bonds. The governing body of the District shall determine the amount, if any, of such surplus debt service funds.

**Sec. 5-251. - Price and Terms.**

The Refunding Bonds may be sold at a competitive sale or through a negotiated sale. The Refunding Bonds must be optionally redeemable at par plus accrued interest to the date of redemption at a time not greater than 10 years from the Date of Issuance of the Refunding Bonds. The Refunding Bonds may be structured utilizing current interest payment bonds, capital appreciation bonds, convertible capital appreciation bonds or any other type of market-accepted hybrid security. The Refunding Bonds shall not be sold for less than ninety-five percent (95%) of the par value of the bonds, provided the True Interest Cost of the bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, shall not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the Date of Issuance of the Refunding Bonds.

**Sec. 5-252. - Rate of Taxation.**

Whenever a rate of ad valorem taxation is required to be calculated or determined hereunder, such rate shall, for all purposes of this Ordinance, be rounded to the nearest \$.01.

**Sec. 5-253. - Adoption of Ordinance Provisions.**

In order to avail itself to the authority of this Ordinance, the District shall include a covenant in the order or resolution authorizing the issuance of the Refunding Bonds to observe the provisions of this Ordinance in the refunding of the District's Indebtedness.

**Sec. 5-254. - Documents.**

Following the issuance of the Refunding Bonds, the District shall file a bound or digital transcript of proceedings authorizing the issuance of Refunding Bonds with the City Secretary.

**Sec. 5-255. - Waiver for Exceptional Circumstances.**

The City Council recognizes that from time to time exceptional circumstances may occur that make the application of one or more of the conditions contained in this Ordinance inappropriate, or not in the City's interest, and, accordingly, the City Council may waive one or more requirements of this Ordinance. In order to initiate such a waiver, the District may submit a request for a waiver, in writing, addressed to the attention of the City Secretary.

**Sec. 5-256. - Standards and Conditions.**

A District may issue Refunding Bonds to refund Indebtedness if the District and such Refunding Bonds meet the following standards and conditions:

- A. The refunding transaction provides both Gross Debt Service Savings and Net Present Value Savings;
- B. The Net Present Value Savings is three percent (3%) or more of the principal amount of the Refunded Bonds;
- C. The Gross Debt Service Savings is structured on a uniform basis, that is, during the period which ends on the final scheduled maturity of the Refunding Bonds, the spread from the greatest annual debt service savings in any Annual Payment Period to the least annual debt service savings in any Annual Payment Period (excluding savings in the year of the final scheduled maturity of the Refunding Bonds, if not a complete Annual Payment Period) is not more than \$5,000 plus the interest thereon; provided that, for purposes of this subsection, Gross Debt Service Savings in the first Annual Payment Period shall not include the transfer of any cash or securities from District sources, other than proceeds of the Refunding Bonds, to the escrow fund or redemption fund for the Refunded Bonds except as necessary to achieve the level debt service savings required by this subsection;
- D. There shall be positive Gross Debt Service Savings during the period between the final Annual Payment Period and the final scheduled maturity of the Refunding Bonds;
- E. The date of the latest scheduled maturity of the Refunding Bonds is not later than the date of the latest scheduled maturity of the Refunded Bonds; and
- F. The Verifier certifies the mathematical accuracy of the calculations necessary to satisfy the requirements relative to Gross Debt Service Savings and the Net Present Value Savings.

**Sec. 5-257. - City Approval.**

Prior to the issuance of any Refunding Bonds, the District will request City approval and shall submit the following information with such request:

- A. A request to approve the Refunding Bonds in a par amount not to exceed the amount specified in the request;
- B. The District's financial advisor's report for the proposed transaction on which the District considered and based its approval of the transaction, including the par amount of the bonds, whether the transaction will be a Current Refunding or an Advance Refunding, the sources and uses of funds, a summary of refunding results, savings, anticipated pricing, bonds to be refunded, costs of issuance, and escrow statistics (if there will be an escrow of funds) and such other

documents that were or are to be presented to the District's board of directors related to the proposed transaction;

- C. The Official Statement (draft is acceptable), if any;
- D. Parameters of the sale, if the transaction is to be a parameter sale;
- E. A certificate from the financial advisor that the transaction complies with the requirements of this Ordinance; and
- F. Such other documents as the City may reasonably request.

**Secs. 5-258 – 5-260. – Reserved.**